

Boca Grove Property Owners Association, Inc.
Fining and Suspension Process

Hearing Etiquette

- FS 720.305 hearing process is state mandated and is not a court of law, this is a hearing process to discuss a penalty proposed by the BGPOA Board of Directors in response to a violation of the BGPOA Governing Documents.
- Parties / attendees may not address each other directly. All commentary and questions must be delivered and asked by Hearing Committee Chairman.
- Counsel is not required. If present, may not speak at the hearing but may advise their client.

From the First Amended and Restated Declaration of Protective Covenants and Restrictions for Boca Grove (“Declaration”) and Section 720.305, Florida Statutes

1. **Declaration Section 8.4. Violation is presented to the Board:** Any Member whose conduct or failure to comply with the provisions of the Documents, including, but not limited to, the failure to pay any amounts due to BGPOA from the Member under the Documents and whose conduct or failure to comply with the provisions of the Documents shall in the opinion of the Board be considered detrimental to the welfare of BGPOA may be suspended after notice to such Member and an opportunity to be heard, as more specifically set forth below.
2. **Proposed Fine/Suspension. Board proposes fine or suspension at a regular or special meeting:** BGPOA may suspend the rights to use all or any portion of the Common Property; provided however, a suspension may not prohibit an Owner or lessee of a Dwelling Unit from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park. During a suspension, a suspended Member shall still be obligated to pay all applicable Assessments and other charges payable to BGPOA notwithstanding that such suspended Member, Family and their guests, invitees and any lessees or sublessees residing in his Dwelling Unit and their Family and their guests shall not be entitled to use any of the facilities located on the Country Club Area.

In addition to suspension of rights to use any portion of the Country Club Area, BGPOA may levy reasonable fines, not to exceed Five Hundred (\$500.00) Dollars per violation and up to Twenty Five Thousand (\$25,000.00) Dollars for a continuing violation, against any Member or any Member's Family, tenant, guest or invitee, jointly and severally, for any violation of the Documents.

- **Discussion should be limited to the proposed penalty only, not the individual or the conduct, both of which should already have been vetted.**
3. **Written Notice of Violation and Hearing.** Member is notified of alleged conduct, proposed penalty and hearing: Once the Board approves a proposed fine or suspension for a violation, the Member must be sent a written notice, describing the following: (i) the alleged violation; (ii) the specific action required to cure such violation (if applicable); (iii) the proposed fine or suspension; (iv) the date and location of the hearing before a committee of at

least three (3) Members, appointed by the Board, none of whom may be officers, directors or employees of BGPOA, or the spouse, parent, child, brother or sister of an officer, director or employee of BGPOA (“Hearing Committee”).¹ The Member has the right to attend the hearing by telephone or other electronic means. The notice must be sent to the Member’s designated mailing address or email address (if the Member has consented to receive notice by electronic transmission) at least fourteen (14) days prior to the hearing.

4. Hearing. Pursuant to Section 720.305, Florida Statutes, the hearing must occur regardless of whether the Member requests or attends the hearing.²

- The role of the Hearing Committee is limited to determining whether to approve or reject the fine or suspension proposed by the Board. The Hearing Committee has no authority to increase, decrease, or modify the proposed fine or suspension.
- After the hearing, the Hearing Committee must provide written notice to the Member of its findings related to the violation, including any fines or suspensions that were approved or rejected, and how the Member may cure the violation (if applicable). The notice must be sent to the Member’s designated mailing address or email address (if the Member has consented to receive notice by electronic transmission).³
- If the Hearing Committee, by majority vote, does not approve the fine or suspension proposed by the Board, the fine or suspension may not be imposed. The Hearing Committee may but is not required to present a non-binding recommendation on a new penalty for the Board’s consideration. The Board must deliberate any new proposed penalty at an open meeting followed by a Hearing. The Hearing Committee must approve any new proposed penalty before it can be imposed. No penalty may be imposed until the Hearing Committee and the Board agree on such penalty.
- If the Hearing Committee, by a majority vote, approves a proposed fine or suspension, the fine payment is due within thirty (30) days after the written notice of the committee’s findings. An approved suspension is effective on the date determined by the Board.⁴

5. Suspension for Delinquencies over ninety (90) days. The Board may also suspend the rights to use all or any portion of the Common Property or the voting rights of a Member for failure to pay assessments or other charges due to BGPOA for more than ninety (90) days. The Board must approve any such suspension at a properly noticed meeting; however, the procedural requirements for a hearing before the Hearing Committee do not apply. Upon approval, the Board must send written notice of the suspension to the Member’s designated mailing address or email address (if the Member has consented to receive notice by electronic transmission).

¹ HB 1203 (2024) approved by Florida legislature and awaiting Governor signature amends statute to also required the “access information if [the hearing is] held by telephone or electronic means.”

² HB 1203 (2024) amends statute to provide that if violation is corrected prior to hearing, fine or suspension may not be imposed.

³ HB 1203 (2024) amends statute to also require the notice to state how the suspension can be fulfilled.

⁴ HB 1203 (2024) amends this statute to provide that due date for fine cannot be any sooner than thirty (30) days from the date of the written notice.

6. **Member Grievances.** **Member to Member complaints must be timely filed.** Pursuant to the Resolution of the Board of Directors dated May 23, 2023, complaints made by a Member against another Member or other person (“Member Grievances”) pertaining to violations of the Governing Documents must be reported in writing to BGPOA within fifteen (15) days from the date of occurrence of the incident giving rise to the Member Grievance (“Reporting Period”). Any Member Grievances which are first reported to BGPOA after the Reporting Period has expired will not be accepted nor acted upon by BGPOA. The Reporting Period shall not apply to violations of the Governing Documents and other disciplinary matters initiated and pursued by BGPOA or its agents and employees.